

COMPATIBILITY DETERMINATION
CAPE HATTERAS ELECTRIC COOPERATIVE

AMENDMENT TO RIGHT-OF-WAY
PERMIT ES-0852

on

PEA ISLAND NATIONAL WILDLIFE REFUGE

DARE COUNTY, NORTH CAROLINA



U. S. FISH AND WILDLIFE SERVICE
ALLIGATOR RIVER NATIONAL WILDLIFE REFUGE COMPLEX
MANTEO, NORTH CAROLINA

MAY 2017

**U. S. FISH AND WILDLIFE SERVICE
PEA ISLAND NATIONAL WILDLIFE REFUGE**

COMPATIBILITY DETERMINATION

Use: Cape Hatteras Electric Cooperative Request for Amendment to Right-of-Way Permit ES-0852 on Pea Island National Wildlife Refuge, Dare County, North Carolina

Refuge Name: Pea Island National Wildlife Refuge (Refuge)

Establishing and Acquisition Authority (ies): Executive Order 7864 - April 12, 1938

Refuge Purpose(s): “ — as a Refuge and breeding ground for migratory birds and other wildlife — “

National Wildlife Refuge System Mission:

To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.

Description of Use:

Cape Hatteras Electric Cooperative (CHEC) is requesting an amendment to their existing right-of-way (ROW) Permit ES-0852. The Permit has been amended on seven occasions since issued in 1966. CHEC is a non-profit utility providing electric service to Hatteras Island, including facilities owned and operated by Pea Island National Wildlife Refuge.

The N. C. Department of Transportation (NCDOT) is in the construction phase of replacing the Herbert C. Bonner Bridge over Oregon Inlet (TIP Project B-2500, Phase I). Cape Hatteras Electric Cooperative (CHEC) owns and maintains a 115 kV transmission line that is currently attached to the existing bridge as it passes over Oregon Inlet. At the southern bridge terminus, the transmission line transitions from the bridge and goes underground to a riser station where it transitions to an above ground transmission line on poles within a 50 foot right-of-way (ROW). The relocated transmission line will be attached to the new bridge but at the new southern terminus it will transition back to the existing transmission line on poles on a new location. This overall new alignment requires an amendment to the existing CHEC ROW Permit ES-0852.

The project area is located within the active construction zone for the Bonner Bridge replacement project and has been subjected to intense scrutiny by various natural resource agencies. Since this relocation project is a direct result of bridge replacement, some of the regulatory documents approved for the B-2500 project are applicable to this project and will be incorporated by reference.

CHEC is preparing an Environmental Report, as required by the U. S. Department of Agriculture Rural Utilities Service. This report has been commissioned and will be completed prior to construction. None of the proposed work is scheduled to occur in an area used by listed species or other species with special designations.

Analyses conducted for this Compatibility Determination (CD) are based upon information presented in the various NEPA documents prepared by the North Carolina Department of

Transportation and the U. S. Fish & Wildlife Service's 2012 Revised Compatibility Determination and the 2008 Biological Opinion prepared for the Bonner Bridge replacement project. This analysis also is based upon sound professional judgment by refuge managers, ecologists, coastal geologists, and wildlife biologists.

Availability of Resources:

Preparation of the CD, coordination with other offices, public involvement, and assembly of the Right-of-Way Permit package requires substantial Refuge staff time. Consultation with the Division of Ecological Services Raleigh Field Office and an Intra-Service Section 7 Endangered Species Act Biological Evaluation will be necessary, as endangered species occur in the project vicinity. Cultural and archaeological resource consultation is also required. Some resources such as staff time and transportation expenses will be required for monitoring the project during construction. Expenditures for equipment, facilities, improvements, maintenance, or other materials and supplies are not anticipated for this project.

Anticipated Biological Impacts of Use:

At the new southern terminus the relocated transmission line will transition back to the existing transmission line on poles on new location. To minimize impacts, the new ROW will be cleared by hand if any clearing is necessary. Mats will be used when traversing Refuge land to minimize impacts to the substrate and vegetative communities. The old ROW will be abandoned and will revert back to Pea Island National Wildlife Refuge. All work is planned for the Fall of 2017 thereby avoiding peak wildlife nesting seasons. Deviations from this planned work schedule, if any, will be addressed by the Refuge Manager.

As a result of the utility easement relocation, the combined effects on refuge lands are that about 0.61 acre of new ROW will be established and about 1.89 acres of ROW abandoned. Of the 0.61 acre of new ROW, 0.45 acre will be co-located in an easement 10 feet wide within the NCDOT ROW. New CHEC ROW outside of any other easement is 0.16 acre. This results in a net return to the Refuge of 1.73 acres of land. The net effect is there will be no net loss in habitat quantity or quality of refuge lands from relocation of this distribution line. Over time there should be a net gain in habitat quality as the abandoned row will naturalize into native plant communities.

Short Term Impacts

There will be short term impacts resulting from construction, including the use of some construction equipment and disturbance of the existing grassland/shrub habitat type. The greatest impact will result in traversing the ROW with construction equipment to either construct new line or remove the old line. These areas will be maintained mostly as a grassland/shrub community within the new ROW. Within a relatively short period of time, wildlife displaced during construction will resume full use of the area. Some bird strikes with electric lines will likely continue, although increases in the number and frequency are not expected since the line will not change in function or capacity and will not be relocated over emergent wetlands or open water on the Refuge. A positive for this relocation project is there will be far less aerial transmission line (1,650 linear feet) than currently existing on the Refuge.

Long-term Impacts

Long-term impacts from the relocation will include those associated with maintaining the ROW in a plant community that will not jeopardize the utility poles during prescribed burns. In most cases this will result in a grassland community similar to existing habitat at the project site. Bird

strikes with the electric lines will continue but should decrease as there will be considerably less aerial transmission line. The magnitude and frequency of use at the project site is not expected to increase in the future.

Cumulative Impacts

The utility corridor ROW will be in addition to the NC 12 Highway ROW. The old utility ROW will be abandoned and all utility equipment, materials, and debris will be removed. There should be a net positive change in the amount of refuge land affected by the utility ROW as the abandoned ROW will revert to the Refuge. Other utility lines will be co-located within the NC 12 ROW or the CHEC ROW.

Public Review and Comment: Notice of availability for the Draft Compatibility Determination was released on May 25, 2017 to local newspapers, the Dare County Public Library, and was posted on the Refuge web page as well as the information desk in the Gateway and Pea Island Visitor Centers for a period of no less than 14 days. Comments received will be incorporated in Appendix II along with responses as appropriate.

Determination:

☐ Use is Not Compatible

☒ Use is Compatible With the Following Stipulations

Stipulations Necessary to Ensure Compatibility: These stipulations were prepared to ensure that the Refuge purpose and the NWRs mission can be achieved with the proposed utility ROW modifications. Stipulations include:

1. Abandoned utility easement areas shall be restored to a condition as good or better than adjacent, undisturbed habitat to the extent feasible and possible.
2. CHEC shall relinquish all claims to the abandoned easement area(s).
3. CHEC shall ensure full compliance with all terms and conditions within or attached to Right-of-Way Permit ES-0852 and all modifications or amendments thereof.
4. Monitoring and control of exotic and invasive species is required. Stipulation #8 of Permit ES-0852 prohibits the use of herbicides and pesticides without prior approval by the Regional Director. Notice shall be provided to the Refuge so as to allow sufficient time for coordination and necessary approvals before applying any herbicide, pesticide, or any other chemical control agent.
5. The U. S. Fish and Wildlife Service is responsible for the conservation and protection of migratory birds from harm or harassment within the Refuge and the Presidential Proclamation Boundary (Migratory Bird Treaty Act {MBTA: 16 USC § 703 et seq.}). This Proclamation established certain lands and waters within and adjacent to, and in the vicinity of the Refuge as a closed area for the sole purpose of preventing harm to or harassment of migratory birds. In the event that construction is initiated during the wildlife nesting season surveys will be done by Refuge staff to assess nesting activity. If nests are found they will be clearly marked and construction/maintenance activities shall

be modified as directed by the Refuge Manager or designee to protect wildlife nesting activities.

6. Fifteen terms and conditions are specified in 50 CFR 29.21-4. By reference, these terms and conditions are hereby considered to be a part of this Compatibility Determination and will be included (or minor variations thereof) in the ROW Permit.
7. Prior to beginning construction, CHEC shall provide proof that all other required Federal and State permits were acquired.

Justification: The proposed changes in utility ROW and relocation of utility lines will result in minimal and mostly short-term impacts on refuge biological resources. Similarly, the change in ROW will neither materially interfere with nor detract from the mission of the National Wildlife Refuge System or the purpose for which the Refuge was established. CHEC will employ many strategies to avoid and minimize impacts to sensitive areas during construction and maintenance. These actions will minimize the level of impact on the Refuge resources. Assuming full compliance with the Stipulations in this CD, the terms and conditions in ROW Permit ES-0852 and subsequent modifications and amendments, there should be no net loss in habitat quantity or quality with this ROW permit modification.

NEPA Compliance:

Categorical Exclusion X .
Environmental Assessment .
Environmental Impact Statement .
FONSI .

References

Cape Hatteras Electric Cooperative. 2017. Environmental Report for Proposed Facilities Associated with Amendment No. 1 and No. 2 to the 2017-2020 Construction Work Plan. Booth & Associates, Raleigh, NC. 134 pp.

Federal Highway Administration & North Carolina Department of Transportation. 2010. Record of Decision for NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) over Oregon Inlet. Federal-Aid No. BRS-2358(15). NCDOT Project Definition: 32635. TIP Project No. B-2500. Dare County, North Carolina

Federal Highway Administration & North Carolina Department of Transportation. 2013. Environmental Assessment for Pea Island Long-Term Improvements Bonner Bridge Replacement Project Phase IIa. Federal-Aid No. BRNFH-0012(55). NCDOT Project Definition: 32635. STIP Project No. B-2500A. Dare County, North Carolina

Riggs, S. R., Ames, D. V. , Culver, S. J. , Mallinson, D. J., 2011b, The Battle for North Carolina's Coast: Evolutionary History, Present Crisis & Vision for the Future. The University of North Carolina Press, Chapel Hill, NC. 142 pp.

U.S. Fish and Wildlife Service. 2006. Pea Island National Wildlife Refuge Comprehensive Conservation Plan. United States Department of Interior, Southeast Region, Atlanta, GA. 192 pp.

U. S. Fish and Wildlife Service. 2008. Biological and Conference Opinions for the Proposed Replacement of the Herbert C. Bonner Bridge (Bridge No. 11 over Oregon Inlet; TIP No. B-2500), Dare County, NC 71 pp.

U.S. Fish and Wildlife Service. 2012. Revised Compatibility determination on NCDOT Request for NC Highway 12 Right-of-Way (ROW) Permit on Pea Island National Wildlife Refuge, Dare County, North Carolina. 9 pp.

Signatures:

Signature: Refuge Manager: _____
(Signature and Date)

Review: Regional Compatibility
Coordinator: _____
(Signature and Date)

Review: Refuge Supervisor: _____
(Signature and Date)

Concurrence: Regional Chief: _____
(Signature and Date)

Mandatory 10- or 15-Year Re-evaluation Date: _____